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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

Ludmila Gulkarov, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

Plum, PBC, a Delaware corporation,

Defendant.

Case No. 4:21-cv-00913-YGR

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

PLEASE TAKE NOTICE that Plaintiff Ludmila Gulkarov submits this Administrative Motion to Consider Whether Cases Should be Related to the case *Kelly McKeon and Josh Crawford v. Plum, PBC and Plum, Inc. d/b/a Plum Organics*, Court File 3:21-cv-01113 (N.D. Calif.) (“McKeon Action”), pursuant to Civil Local Rules 3-12 and 7-11 and consolidated for all purposes going forward.

A. INTRODUCTION

This case and the *McKeon* Action both concern Defendant’s manufacturing, marketing, advertising, labeling, distribution, and sale of certain baby foods (“Baby Foods”) contaminated with heavy metals. Plaintiff’s case meets the requirements of Civil Local Rule 3-12 and 7-11 to be related to the *McKeon* Action, and Plaintiff respectfully requests that the Court issue an order formally

1 relating and consolidating the actions. Counsel in the *McKeon* Action agrees to consolidation of the
 2 matters.

3 **B. RELATIONSHIP OF THE *McKEON* ACTION**

4 Civil Local Rule 3-12 provides that actions are related when:

5 (1) The actions concern substantially the same parties, property, transaction or event;
 6 and

7 (2) It appears likely that there will be an unduly burdensome duplication of labor and
 8 expense or conflicting results if the cases are conducted before different Judges.

9 N.D. CAL. CIV. R. 3-12(a). The instant case and the *McKeon* Action satisfy both criteria. This
 10 administrative motion is made on the grounds that the actions involve substantially similar parties,
 11 transactions, and events, namely Defendant's fraudulent manufacturing, marketing, advertising,
 12 labeling, distribution, and sale of Baby Foods in violation of California's and other states' consumer
 13 protection laws.

14 The instant case and the *McKeon* Action bring nearly identical causes of action. Critical
 15 issues that will be presented in all of the cases listed above include, but are not limited to, whether
 16 (a) Defendant's packaging and omissions misled a reasonable consumer as to the presence of (or
 17 risk of) heavy metals in the Baby Food; (b) Defendant knew or should have known that presence of
 18 (or risk of) heavy metals in the Baby Foods was material to a reasonable consumer; (c) Defendant
 19 represented and continues to represent that the Baby Foods are healthy, quality, pure, and safe; (e)
 20 whether Defendant's representations and omissions in advertising and/or labeling are false,
 21 deceptive, and misleading; (f) whether those representations and omissions are likely to deceive a
 22 reasonable consumer; and (g) whether Defendant had knowledge that those representations and
 23 omissions were false, deceptive, and misleading;. A failure to relate these cases would lead to
 24 unduly burdensome duplication of discovery, labor, and expenses and increase the possibility of
 25 inconsistent results and rulings as similar issues of fact and law are likely to be presented in these
 26 actions. Consequently, the parties and the Court will benefit from efficiencies should this matter be
 27 administratively related to the *McKeon* Action.

1 **C. CONCLUSION**

2 The above-captioned matter clearly arises from the same facts and events and presents the
3 same issues as those in the *McKeon* Action. Because it satisfies the criteria of Local Rule 3-12,
4 Plaintiff respectfully requests that this case be deemed administratively related to and consolidated
5 with the *McKeon* Action and that it be assigned to the Honorable Yvonne Gonzalez Rogers.

6
7 Dated: February 19, 2021

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Plaintiff and the Putative Class